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Letter Opinion No. 62-57-L

May 15, 1962

REQUESTED BY: Mr. Tom Houlihan
Labor Department, Industrial Commission of Arizona

OPINION BY: The Attorney General

QUESTION: Under Work Experience Program, Ray District High School, Kearney, Arizona, may children between the ages of sixteen and eighteen years, in conformity with A.R.S. § 23-231, et seq., do clerical work in office and warehouse of Ray Mines Division plants of Kennecott Copper Corporation at Ray and Hayden, Arizona?

CONCLUSION: Affirmative (see opinion).

A.R.S. § 23-233 provides:

§ 23-233. Employments prohibited to children under eighteen

A child under the age of eighteen years shall not be employed or allowed to work in, about or in connection with:

1. Blast furnaces, smelters, or ore reduction works.
- . . .
4. Underground operations in a mine.
- . . .
8. Any other employment declared by the state board of health to be dangerous to the lives or limbs or injurious to the health and morals of children under the age of eighteen.

Kennecott Copper Company's plants, at Ray and Hayden, Arizona, contain ore reduction works and smelter, a mill and crusher.

The phrase, "in, about or in connection with" has received very stringent interpretation.

Campbell Contracting Corp. v. Maryland Casualty Co.,
C.C.A., N.C., 21 F. 2d 909, 910.

However, insofar as we can tell, the phrase has not been construed

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in Arizona cases, nor as to clerical employments, nor as to a Work Experience Program of the public schools.

It is our view that where the work offered the children is in the same building as the "smelters, ore reduction works" or the shaft heading of an "underground operation", the employment would be prohibited under the statute. If the anticipated employment is in areas separate from the buildings in which the smelter, ore reduction works or surface opening of the mine are located, it would not come within the prohibition.

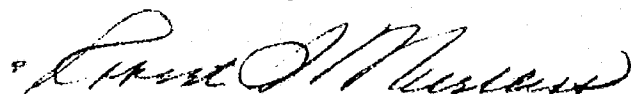
Therefore, in the description of employment and places described in the material supplied by Ray Mines Division of Kennecott Copper Corporation, the paragraph hereinafter set forth describes places, locations and work which, under such public school program, would not be prohibited:

"Under a work experience program, which would be co-ordinated with officials of local educational facilities, Kennecott Copper Corporation would plan to provide on-the-job working experience for students between the ages of sixteen and eighteen in the classifications of typists, secretary, steno-clerk, receptionist, warehouse clerks, purchasing clerks, draftsman, and perhaps some others. Some of the work assignments would be within the area of our reduction plant, that is, in the warehouse, in the Smelter office building, the Industrial Relations building, and the Concentrator office. While located within a general area involving ore reduction works, these buildings are not a part of our extension to the smelter, or the mill, or the crushing plants. If a student were assigned to these areas, they would not be required to travel to the smelter, the mill or the crusher buildings."

It is our opinion that the prohibition of A.R.S. § 23-233 applies to employment in the same building with blast furnaces, smelters, or ore reduction works, or mine portal, and to any other employment declared by the state board of health to be dangerous to lives or limbs or injurious to the health and morals of children. Where the employment is not in the same building with the prohibited activities, we do not believe the prohibition applies.

We trust this answers your question.

ROBERT W. PICKRELL
The Attorney General


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